

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 14, 2020****CASE NUMBER**

6344

APPLICANT NAME

Gary Beasley II

LOCATION

741 Lakeside Drive West
(East side of Lakeside Drive West, 93'± North of Lakeside Drive South)

VARIANCE REQUEST

TREE PLANTING & FRONT LANDSCAPE AREA:
Tree Planting and Front Landscape Area Variance to allow reduced tree and landscaping requirements.

SIDE YARD SETBACK: Side Yard Setback Variance to allow the construction of a structure less than 5' from the property line.

MULTIPLE STRUCTURES: Multiple Structures Variance to allow the construction of a second primary structure and connecting canopy on a single building site.

**ZONING ORDINANCE
REQUIREMENT**

TREE PLANTING & FRONT LANDSCAPE AREA:
The Zoning Ordinance requires full compliance with tree and landscaping requirements.

SIDE YARD SETBACK: The Zoning Ordinance requires a minimum side yard width of 5' in a B-3, Community Business District.

MULTIPLE STRUCTURES: The Zoning Ordinance requires a separate building site for each structure other than an accessory structure in a B-3, Community Business District.

ZONING

B-3, Community Business District.

AREA OF PROPERTY

0.2± Acre

**ENGINEERING
COMMENTS****TREE PLANTING VARIANCE:** NO COMMENTS**FRONT LANDSCAPING VARIANCE:** NO COMMENT

SIDE YARD SETBACK VARIANCE (NEW STRUCTURE):

If any of the proposed variances are approved for use the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.

MULTIPLE STRUCTURES VARIANCE: NO COMMENT

**TRAFFIC ENGINEERING
COMMENTS**

No comments

**URBAN FORESTRY
COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.

**FIRE DEPARTMENT
COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code).

**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting Tree Planting, Front Landscape Area, Side Yard Setback, and Multiple Structures Variances to allow the construction of a second primary structure and connecting canopy on a single building site less than 5' from a side property line with reduced tree and landscaping in a B-3, Community Business District; the Zoning Ordinance requires full compliance with tree and landscape area requirements, a minimum side yard width of 5', and a separate building site for each structure other than an accessory structure in a B-3, Community Business District.

The site has been given a Mixed Commercial Corridor (MCC) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. MCC includes a wide variety of retail, services and entertainment uses.

This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to raise design quality, improve connectivity to surrounding neighborhoods; improved streetscapes; and improve mobility and accessibility for all users of the corridor.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant's narrative states:

Existing Conditions

This project is located at 741 Lakeside Drive and is currently operating as an office with warehouse space for a plumbing contractor. The office building was constructed in the 1970's and the surrounding area is almost fully developed. The property is zoned B-3. The area between the building and roadway was paved as parking as part of the initial development of the property. The rear of the site is surrounded by a chain link fence.

Proposed Project

A storage shed was removed and replaced with a new metal building behind the office building which exceeds the sites total building footprint by over 50%.

Request for waiver of front landscaping area requirements:

The office building was constructed in 1978 (tax records) and the area between the building and right-of-way was paved for parking at that time. This portion of the site has not been altered since the initial construction of the building. To provide the required landscape area would impact the parking and maneuvering area. Due to the development conditions and small size of the property that were set prior to the implementation of the landscape ordinance a request is made to waive the frontage landscape area requirements.

Request for waiver of tree planting requirements:

The office building was constructed in 1978 (tax records) and the area between the building and right-of-way was paved for parking at that time. To provide the required frontage trees would impact the parking and maneuvering area. The distance between the buildings and the north property line do not provide for adequate room for tree plantings and the maneuvering area on the south and east boundaries would be compromised if trees were planted. Additionally, any trees planted would not likely have the space to grow with the surrounding structures and maneuvering activities that are a result of the small property. Due to the development conditions and small size of the property that were set prior to the implementation of the landscape ordinance a request is made to waive the site tree planting requirements.

Request for waiver side setback:

The new warehouse building was constructed to match the existing office building distance to the side property line of 3.28 feet. This was done for uniformity of the roof line of the canopy between the office and warehouse buildings.

Request for multiple buildings on a single commercial site:

The owner has replaced previously existing storage shed with a new pre-engineered metal building. The storage area within the office structure and removed shed does not meet the needs of the owner. The accessory warehouse structure is located in the rear of the property with a covered canopy connecting it to the office building. Due to the nature of the business using the property, the accessory warehouse structure is required to conduct operations.

As stated in the narrative, the applicant has completed construction of a 25' x 45' metal warehouse building, which is connected via a canopy to an existing ~ 30' x 35' office building. It is important to note that city records show no building permits have been applied for in association with the construction of the warehouse structure or connecting canopy. If permits were requested prior to construction, the applicant would have been advised accordingly to mitigate the possible need for numerous Variances.

The applicant is requesting Variances for Tree Planting, Front Landscape Area, Side Yard Setback, and Multiple Structures to allow a second primary structure and connecting canopy on a single building site less than 5' from a side property line with reduced tree plantings and landscaping.

Because the addition results in an increase of more than 50% of the existing building square footage, the site is required to be brought into full compliance with tree planting and landscape

area requirements. In regard to the Tree Planting and Landscape Area Variances, the applicant has illustrated that hardships may exist on the property such that Variances may be appropriate. Due to the way the property was originally developed in 1978, compliance with current tree and landscaping requirements could potentially reduce the number of on-site parking available between the front of the existing structure and city right-of-way. As the remaining area on-site is either occupied by office and warehouse buildings, or is necessary for maneuvering space, relocation of parking appears to be limited. As such, approval of the Tree Planting and Landscape Area Variances would seem appropriate conditioned upon the donation of 13 heritage trees to the Mobile Tree Commission Tree Bank in order to mitigate the lack of required tree plantings.

With regard to the requested Side Yard Setback Variance, while no apparent hardship exists on-site that would prohibit the applicant from otherwise meeting the required 5-foot setback it is important to note that a number of existing structures in the area appear to have similarly reduced side setbacks. Though non-compliant with current design standards, this is typical of older structures whose construction might pre-date current code requirements, and as such, approval of a reduced Side Yard Setback Variance may be in order. It should be noted that structures less than 5' away from property lines are required by Building and Fire Codes to be fire-rated.

As for the Multiple Structures Variance, the applicant did not provide an adequate hardship to justify such a request. However, while similar instances of multiple primary structures on a single building site do not exist in the area it should be noted that there are a number of existing structures on neighboring lots which are similar in size, if not larger, to the total square footage of the proposed development.

If the Board should see fit to approve the requests at hand, it should also be noted that after-the-fact building permits will be required and can be applied for through the city's Permitting Office.

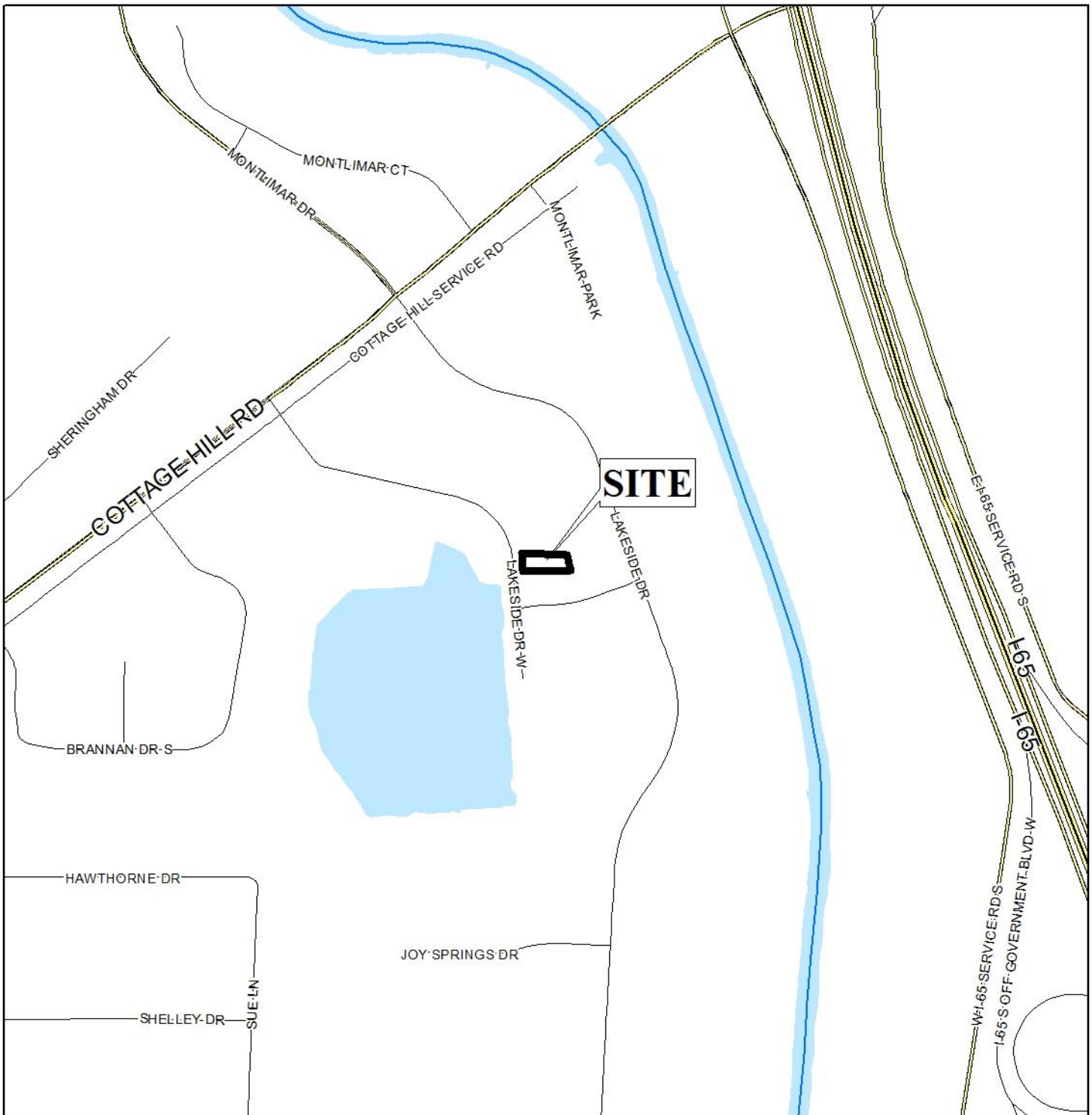
RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Tree Planting, Front Landscape Area, Side Yard Setback, and Multiple Structures Variance requests:

- 1) Approving the variances will not be contrary to the public interest in that the requests will be in keeping with the character of the surrounding area;
- 2) Special conditions were illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the use will not change and traffic within the right-of-way should not be adversely affected.

The approval is subject to the following conditions:

- 1) Donation of 13 heritage trees to the Mobile Tree Commission Tree Bank;
- 2) Obtaining of after-the-fact permits for the development; and
- 3) Full compliance with all other municipal codes and ordinances.

LOCATOR MAP



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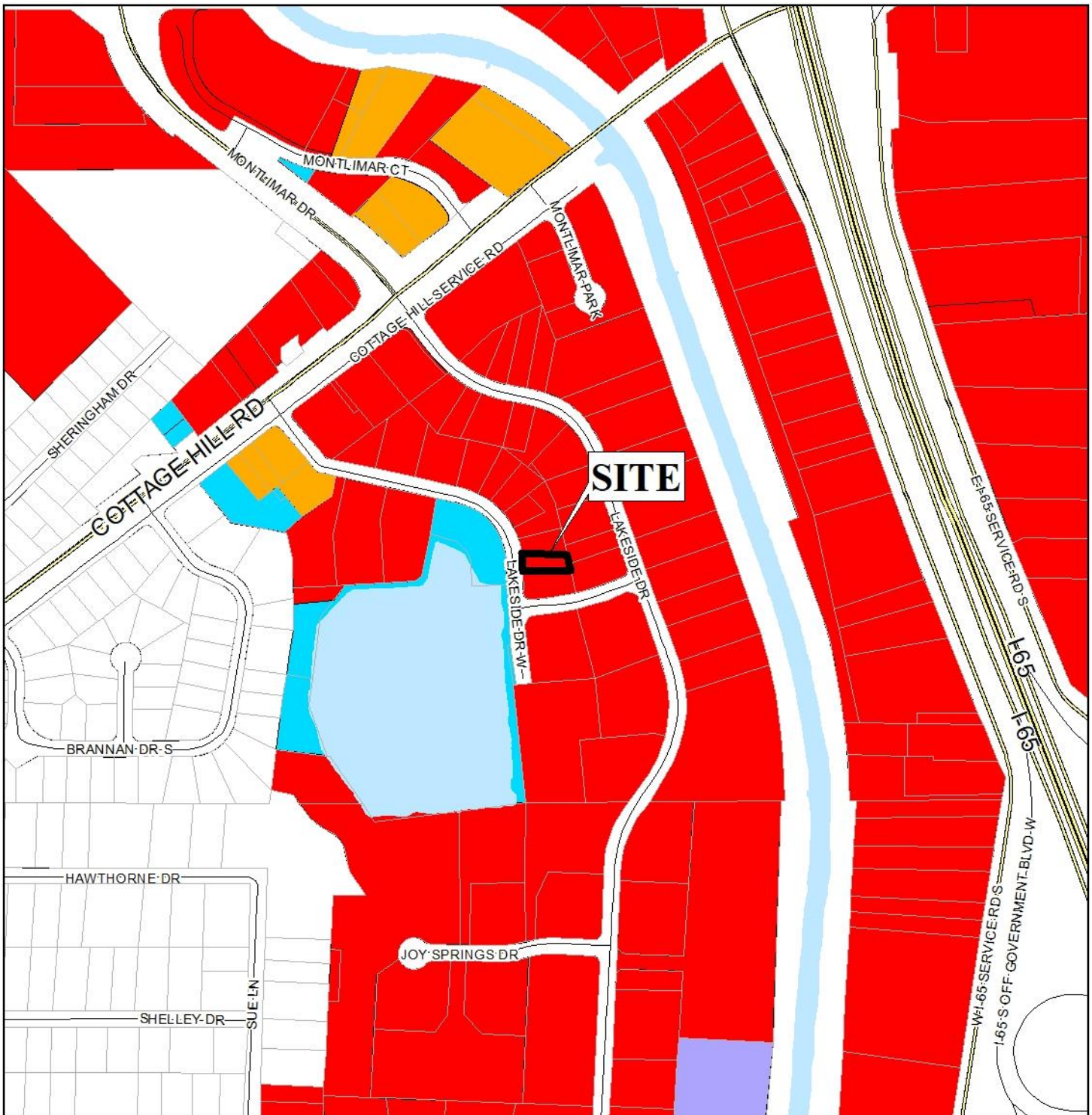
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REQUEST Tree Planting, Front Landscape Area, Side yard Setback,
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NTS

LOCATOR ZONING MAP



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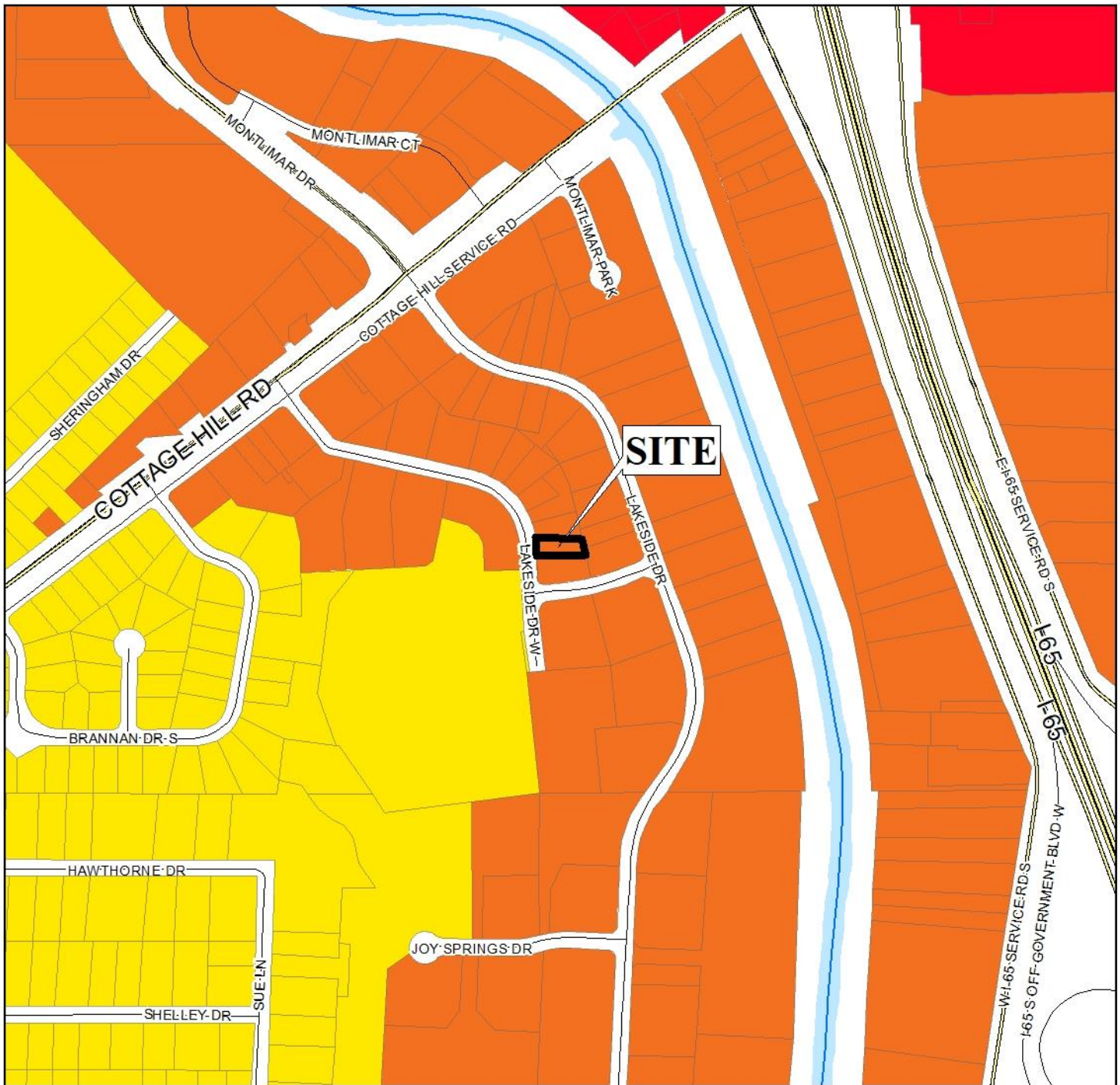
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FLUM LOCATOR MAP



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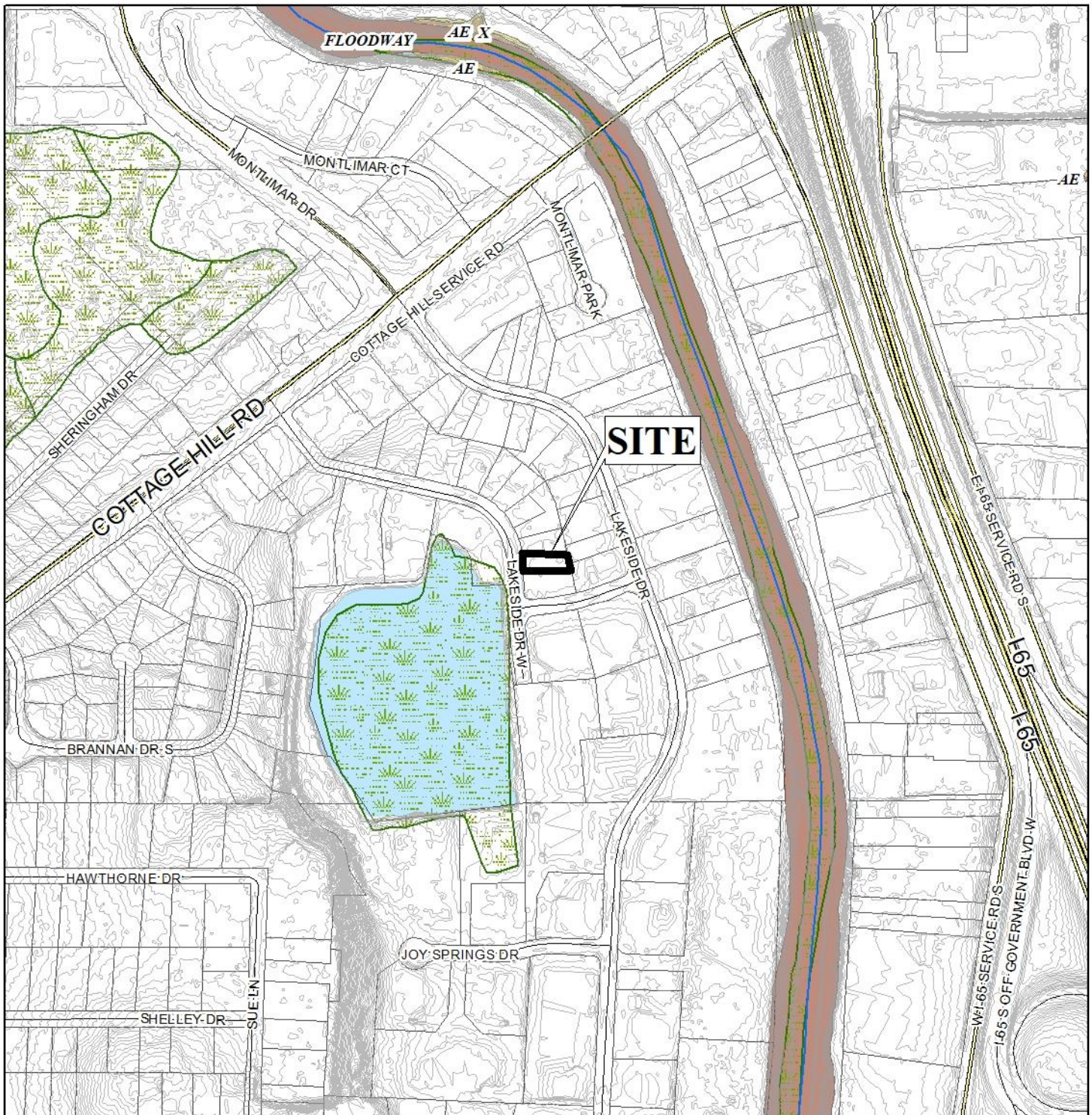
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



ENVIRONMENTAL LOCATOR MAP



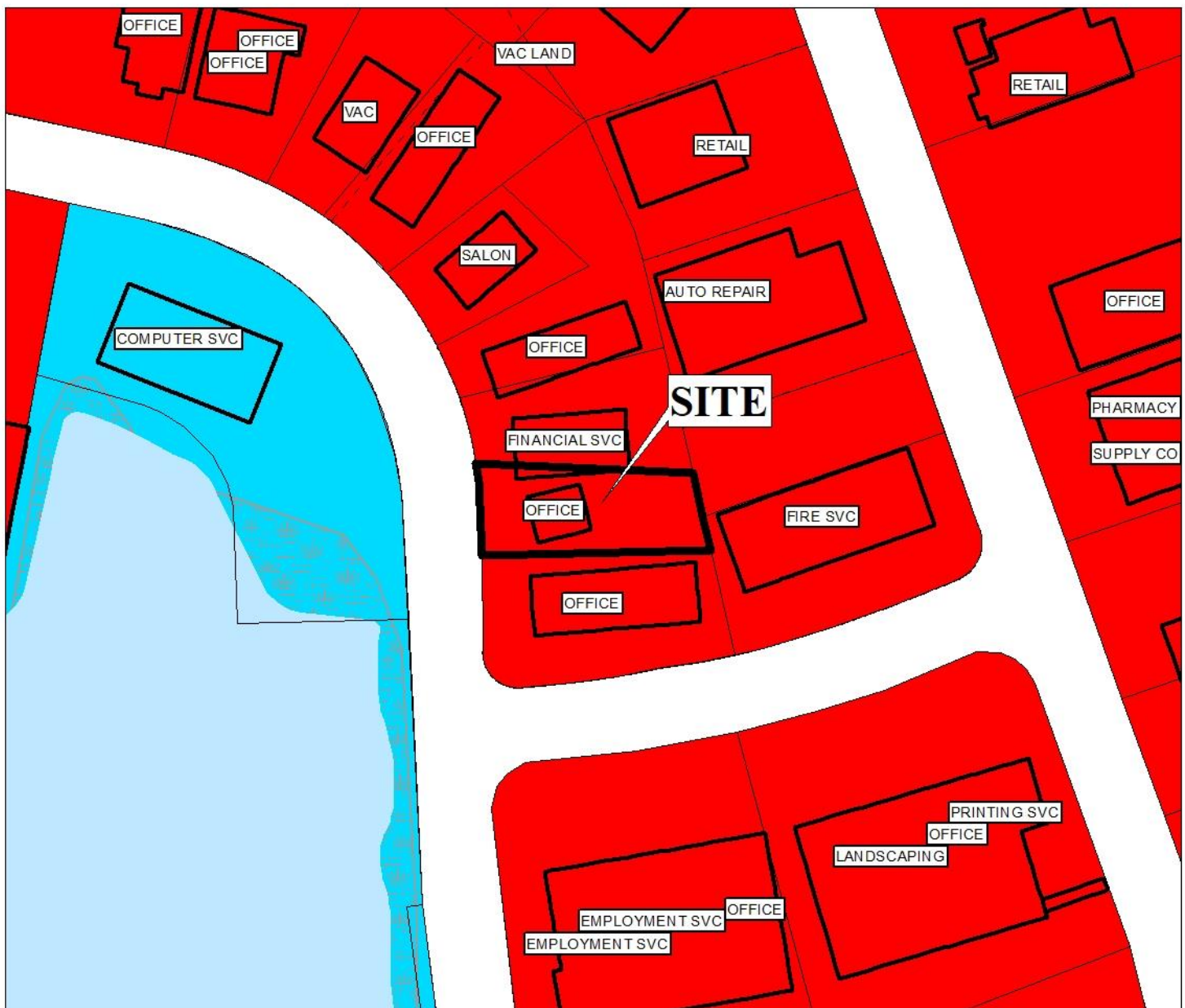
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by office and commerical units, and vacant land.

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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

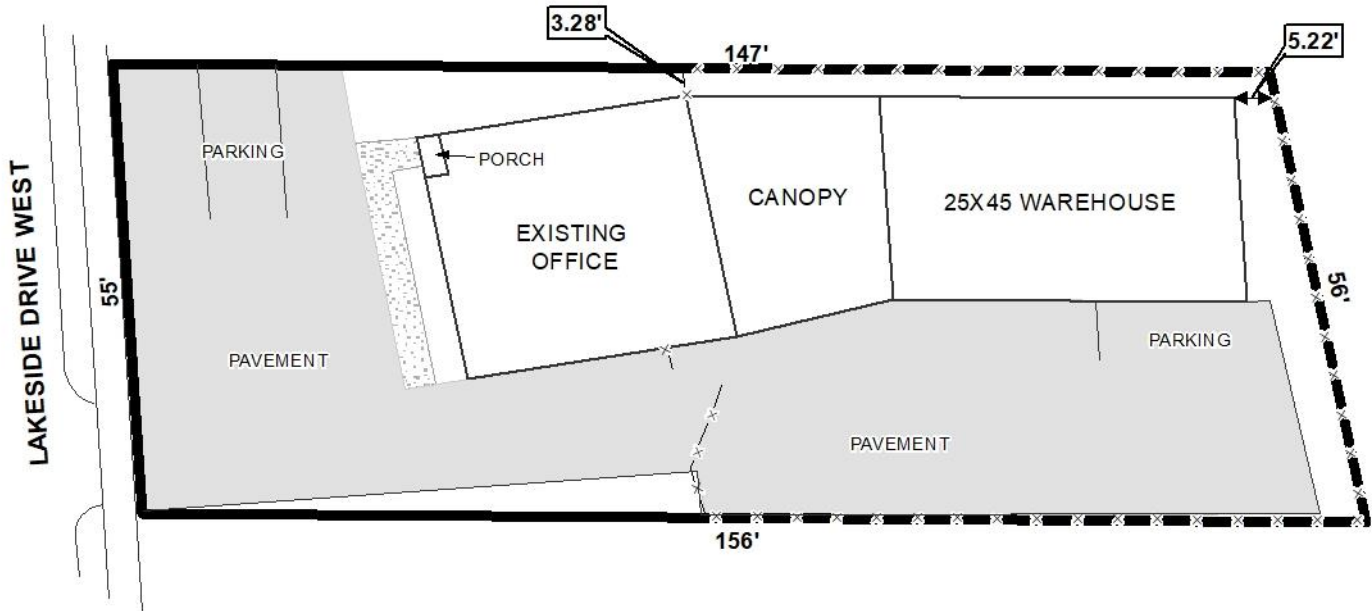


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SITE PLAN



The site plan illustrates the existing building, new warehouse, and parking and maneuvering area.

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